

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Civil Action No. 14-cv-1362 (KMK)

JOSEPH BARBAGALLO,

Plaintiff,

CASE MANAGEMENT AND
SCHEDULING ORDER

vs.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

KENNETH M. KARAS, District Judge:

At the conference before the Court held on September 8, 2014, this Case Management Plan and Scheduling Order was adopted in accordance with Rules 16-26(f) of the Federal Rules of Civil Procedure:

1. All parties **do not consent** to trial by Magistrate Judge, pursuant to 28 U.S.C § 636(c).
2. This case **is not** to be tried to a jury.
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosure pursuant to Rules 26(a)(1), Fed. R. Civ. P., will be completed no later than **September 21, 2014**.
6. All *fact* discovery is to be completed no later than **January 31, 2015**.

Defendant objects to any discovery seeking to accrete the administrative record.

7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in Paragraph 6 above.
 - a. Initial requests for production of documents to be served by **November 1, 2014**.

- b. Interrogatories to be served by **November 1, 2014**.
- c. Depositions to be completed by: **Not Applicable**.
 - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority in deposition by reason of a party's status as Plaintiff or Defendant.
 - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.
- d. Requests to Admit to be served no later than **November 1, 2014**.

See Defendant's objection to paragraph 6.

- 8. All *expert* disclosures, including reports, production of underlying documents and depositions are to be completed by:
 - a. Expert(s) of Plaintiff: **Not Applicable**.
 - b. Expert(s) of Defendant: **Not Applicable**.
- 9. ~~Motions: All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. Summary Judgment or other dispositive motions **shall be due March 1, 2015**. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four (4) weeks prior to this deadline.~~ KMK
- 10. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery.
- 11.
 - a. Counsel for the parties have discussed holding a settlement conference before a Judge Magistrate.
 - b. The parties **request** a settlement conference before a United States Magistrate Judge.
- 12.
 - a. Counsel for the parties have discussed the use of the Court's Mediation Program.
 - b. The parties **do not request** that the case be referred to the Court's Mediation Program.

13. a. Counsel for the parties have discussed the use of a privately-retained mediator.
b. The parties **do not intend** to use a privately-retained mediator.
14. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed.R.Civ.P. If this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.
15. Parties have conferred and their present best estimate of the length of trial is **one (1) day**.

It is Defendant's position that a trial would be inappropriate in this case, which is governed by ERISA, and should be decided by dispositive motions.

TO BE COMPLETED BY THE COURT:

16. [Other directions to the parties]

There will be no extensions of the discovery schedule without the permission of the Court, nor should counsel assume that any extensions will be granted. Counsel may seek permission for an extension of the discovery deadline of the Magistrate Judge to whom the case is referred, but only after consenting to allowing the Magistrate Judge handle the case for all purposes.

17. The (next Case Management) (Final Pretrial Conference) is scheduled for


3/13/15 at 11:30 am.

The movant's pre-motion letter is due 2/27/15;

The non-movant's response is due 3/6/15.

SO ORDERED.

DATED: September 8, 2014
White Plains, New York


KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE